

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REG'D 11 AUG 2005

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Applicant's or agent's file reference <b>63253A</b>	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416																
International application No. <b>PCT/US2004/024949</b>	International filing date (day/month/year) <b>30.07.2004</b>	Priority date (day/month/year) <b>29.08.2003</b>																	
International Patent Classification (IPC) or national classification and IPC <b>C08F10/00</b>																			
Applicant <b>DOW GLOBAL TECHNOLOGIES INC. et al.</b>																			
<ol style="list-style-type: none"> <li>1. This report is the International preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</li> <li>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</li> <li>3. This report is also accompanied by ANNEXES, comprising:               <ol style="list-style-type: none"> <li>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:                   <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> </li> <li>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</li> </ol> </li> <li>4. This report contains indications relating to the following items:               <table style="margin-left: 20px; border: none;"> <tr> <td><input checked="" type="checkbox"/> Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td><input type="checkbox"/> Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/> Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/> Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/> Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/> Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/> Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/> Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> </li> </ol>				<input checked="" type="checkbox"/> Box No. I	Basis of the opinion	<input type="checkbox"/> Box No. II	Priority	<input type="checkbox"/> Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/> Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/> Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/> Box No. VI	Certain documents cited	<input type="checkbox"/> Box No. VII	Certain defects in the international application	<input type="checkbox"/> Box No. VIII	Certain observations on the international application
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<input type="checkbox"/> Box No. VIII	Certain observations on the international application																		
Date of submission of the demand  <b>24.05.2005</b>		Date of completion of this report  <b>10.08.2005</b>																	
Name and mailing address of the International preliminary examining authority:  <div style="display: flex; align-items: center;"> <div>             European Patent Office              D-80298 Munich              Tel. +49 89 2399 - 0 Tx: 523656 epmu d              Fax: +49 89 2399 - 4465           </div> </div>		Authorized Officer  <b>Balmer, J-P</b>  Telephone No. +49 89 2399-																	



**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/US2004/024949

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**Box No. I Basis of the report**

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1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements\*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

**Description, Pages**

1-16 as originally filed

**Claims, Numbers**

1-7 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT  
ON PATENTABILITY**

International application No.  
PCT/US2004/024949

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1-7
Inventive step (IS)	Yes: Claims	
	No: Claims	1-7
Industrial applicability (IA)	Yes: Claims	1-7
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

**Re Item V.**

1. The following documents are referred to in this communication:

D1 : EP-A-0 461 775  
D2 : US-A-5 118 768  
D3 : US-A-5 270 410  
D4 : WO-A-94/06833  
D5 : US-B-6 399 837  
D6 : US-A-4 673 661  
D7 : EP-A-0 398 439  
D8 : US-A-5 362 416

2. The documents D1-D5 disclose the preparation of Ziegler-Natta procatalysts in oil suspension wherein the procatalyst has been prepared according the presently claimed process. In particular in the examples disclosed in these prior art documents, the drying is effected according conditions which are "milder" than the comparative example recited in the present invention (with similar or same diluent to be evaporated).

The remaining diluent is not precisely determined in these prior art documents, but according to the diluent type and the drying conditions it is believed that the remaining diluent falls between the presently claimed range from 7 to 25 percent.

Accordingly D1-D5 are considered as novelty destroying for the present claimed subject matter with regard to Article 33(2) PCT.

3. The document D6 discloses in examples Q-V the preparation of the same Ziegler -Natta procatalyst wherein the drying of the diluent (i.e. heptane with a boiling point of 98°C) is effected at room temperature under nitrogen circulation during one hour.

The dried procatalyst of D6 is not suspended in oil, but this step is considered as customary practice mainly depending of the polymerization process used and the way the procatalyst is used and stored.

Therefore D6 is also considered to be novelty destroying or at least is relevant to assess non-inventiveness for the present invention with regard to Article 33(2+3) PCT.